

### **REMARKS**

This responds to the Office Action mailed on October 15, 2008. Claims 1, 10-13, 36, 41 and 42 are amended. Claims 14 and 15 are cancelled. Claims 45-47 are added. As a result, claims 1-15, 36, 41, 42, and 45-47 are now pending in this application.

#### **§103 Rejection of the Claims**

Claims 1, 2, 5-15, 36, 41 and 42 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Alexander et al. (U.S. Patent No. 6,177,931) in view of Nielsen (U.S. Patent No. 6,199,080).

With respect to independent claim 1 as amended recites, in part, “moving the advertisement cell in the first direction in accordance with a second scheme different than the first scrolling scheme as the list of program cells scrolls in the first direction, wherein moving the advertisement cell in accordance with the second scheme comprises scrolling the advertisement cell in concurrence with the scrolling of the program cell list during a first time portion, keeping the advertisement cell stationary during a second time portion in which the program cell list scrolls, the second time portion based upon a first number of program cells which will move past the advertisement cell while the advertisement cell is kept stationary, and scrolling the advertisement cell in concurrence with the scrolling of the program cell list upon expiration of the second time portion.” Applicants cannot find these claim elements in the Alexander alone or in combination with Nielsen.

With respect to independent claim 36 as amended recites, in part, “during a first time the program cells and advertisement cell move in concurrent fashion and during a second time the advertisement cell remains stationary on the display device during movement of the program cells, wherein the first time and the second time occurs during a single scrolling movement of program cells in one direction, the second time is based upon a first number of program cells which will move past the advertisement cell while the advertisement cell is kept stationary and moving the advertisement cell in concurrent fashion with the program cells upon expiration of the second time.” Applicants cannot find these claim elements in the Alexander alone or in combination with Nielsen.

With respect to independent claim 41 as amended recites, in part, “moving the advertisement cell in accordance with the second scrolling scheme comprises scrolling the advertisement cell in concurrence with the scrolling of the program cell list during a first time portion, keeping the advertisement cell stationary during a second time portion in which the program cell list scrolls, the second time portion is determined based upon a first number of program cells which will move past the advertisement cell while the advertisement cell is kept stationary, and scrolling the advertisement cell in concurrence with the scrolling of the program cell list upon the expiration of the second time portion.”

Alexander relates to an on-screen electronic program guide.<sup>1</sup> The electronic program guide of Alexander includes “advertisement[s] to be displayed as [rows] in the Grid Guide’s (sp) schedule of programs.”<sup>2</sup> These advertisements are referred to in Alexander as “channel ads”.<sup>3</sup>

Nielsen relates to “display of structured information on a computer controlled display device such that the supplemental information used to describe the primary data display is always available to be seen by a user.”<sup>4</sup>

The channel ads in Alexander do not move during scrolling of the electronic programming guide in accordance with a second, different scheme as claimed by the Applicants. More specifically, Alexander does not teach or suggest that an advertisement cell scrolls in concurrence with the scrolling of the program cell list during a first time portion, the advertisement cell is kept stationary during a second time portion in which the program cell list scrolls, and the advertisement cell scrolls in concurrence with the scrolling of the program cell list upon expiration of the second time portion when the second time portion is based upon the first number of program cells which will move past the advertisement cell while the advertisement cell is kept stationary.

The positions of the channel ads of Alexander are determined during the scrolling of the electronic programming guide. “Channel ads do not occupy a fixed area ... but are essentially

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<sup>1</sup> See Abstract and Col. 1, lines 53-55.

<sup>2</sup> See Col. 22, lines 25-27.

<sup>3</sup> See Col. 22, lines 19-33.

<sup>4</sup> See Abstract.

inserted between channels in the grid.”<sup>5</sup> The Channel ad slots “appear as rows of the Grid Guide” and act like “a channel entry in the Grid Guide”.<sup>6</sup>

The positions of the channel ads of Alexander are not determined prior to the scrolling of the electronic program guide. The “Relative Channel Ads appear in a position relative to the top of the grid and are spaced every n channel slots, where n is some number.”<sup>7</sup> The “Parent Channel ads are related to a specific channel located directly above the ad. A Parent Channel ad is attached to its adjacent “parent” channel...”<sup>8</sup> The “Fixed Position Channel ads are located in one specific location, y (where y is some number) channels down from the top of the grid.”<sup>9</sup> Alexander relies on the programming cells of the grid for determining ad channel position.

Based on the foregoing, Alexander and Nielsen, alone or in any combination, do not teach or suggest every claim limitation of independent claims 1, 36, and 41. Therefore, Applicants respectfully requests the withdrawal of the §103(a) of his rejection and allowance of independent claims 1, 36, and 41.

Applicants submit that a dependent claim incorporates each of the claim elements of the independent claim from which it properly depends, and more. Applicants assert for the reasons stated above, that Alexander and Nielsen, alone or in any combination do not teach or suggest<sup>10</sup> all of the claim elements of dependent claims 2, 5-15, 42, and 45-47. Accordingly, the Applicants respectfully request that the Examiner withdraw his rejection of claims 2, 5-15, 42, and 45-47 and indicate the allowance thereof.

New claims 45-47 have been added. They further distinguish from Alexander and Nielsen, for at least the same reasons as claims 1. Further, claim 45 describes a scrolling scheme parameter that defines the first number of program cells on which the second time portion is based is received from a central station. Claim 46 provides that the remote location includes a head end of a cable system. Claim 47 provides that the scrolling scheme parameter further defines a position of the advertisement prior to the moving of the advertisement cell in the first

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<sup>5</sup> See Col. 22, lines 48-49.

<sup>6</sup> See Col. 22, lines 20-33 and lines 51-23.

<sup>7</sup> See Col. 22, lines 64-65.

<sup>8</sup> See Col. 23, lines 12-14.

<sup>9</sup> See Col. 23, lines 20-22.

<sup>10</sup> The references when combined must teach or suggest all the claim elements. M.P.E.P. § 2142 (citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir. 1991)).

direction. Support for the new claims is found in at least claim 1, page 4 lines 4-15 and page 8 lines 7-13.

The amendments to the claims were made solely for the purpose of clarifying terms in the claim and such amendments should not be construed in any way as narrowing the scope of the claim or its equivalents.

**CONCLUSION**

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' representative at (314) 622-6605 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 50-1662.

Respectfully submitted,

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Dated

  
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